

AMENDED IN ASSEMBLY JUNE 19, 2013

AMENDED IN SENATE MAY 2, 2013

AMENDED IN SENATE APRIL 18, 2013

SENATE BILL

No. 308

Introduced by Senator Price

(Principal coauthor: Assembly Member Gordon)

February 15, 2013

An act to amend Sections ~~5800~~, 5810, 5812, 7200, 7215.6, 7303, and 7362 of, and to add Sections 5806, 5807, and 5811.1 to, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 308, as amended, Price. Professions and vocations.

(1) Existing law authorizes a certified interior designer, as defined, to obtain a stamp from an interior design organization, as defined, that uniquely identifies the designer and certifies that he or she meets certain qualifications and requires the use of that stamp on all drawings and documents submitted to any governmental agency by the designer. Existing law provides that these provisions are repealed on January 1, 2014, and shall be subject to review by the ~~Joint Committee on Boards, Commissions, and Consumer Protection, which has been abolished.~~ *Sunset Review Committee.*

This bill would instead repeal those provisions on January 1, 2018, and would make them subject to review by the appropriate policy committees of the Legislature. ~~The bill would include in the definition of a certified interior designer that a certified interior designer provides plans and documents that illustrate specified things and engages in~~

~~coordination and collaboration with other design professionals, as specified.~~

The bill would require a certified interior designer to use a written contract that includes specified information when contracting to provide interior design services to a client pursuant to these provisions and require that nothing in these provisions prohibit interior design or interior decorator services by any person or retail activity.

The bill would require all meetings of an interior design organization to be subject to the open meeting requirements applicable to state agencies.

(2) Existing law provides for the licensure and regulation of various businesses and professions by boards within the Department of Consumer Affairs, including the State Board of Guide Dogs for the Blind. Existing law requires that the board consist of certain members. Existing law establishes a pilot project to provide an arbitration procedure for the purpose of resolving disputes between a guide dog user and a licensed guide dog school, as specified. Existing law repeals these provisions on January 1, 2014.

This bill would extend the operation of these provisions until January 1, 2018.

(3) Existing law provides for the licensure and regulation of barbering and cosmetology by the State Board of Barbering and Cosmetology and authorizes the board to appoint an executive officer. Under existing law, these provisions are repealed on January 1, 2014.

This bill would instead repeal these provisions on January 1, 2016, and specify that the board would be subject to review by the appropriate policy committees of the Legislature upon repeal.

Existing law provides that a board-approved school of barbering and cosmetology is one that is licensed by the Bureau for Private Postsecondary Education or a public school in the state, and offers a course of instruction approved by the board.

This bill would require a school to be approved by the board before it is approved by the Bureau for Private Postsecondary Education and authorize both entities to simultaneously process a school's application for approval. The bill would also authorize the board to revoke, suspend, or deny its approval of a school on specified grounds.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 5800 of the Business and Professions Code~~
2 ~~is amended to read:~~

3 ~~5800. As used in this chapter:~~

4 ~~(a) “Certified interior designer” means a person who meets all~~
5 ~~of the following requirements:~~

6 ~~(1) Prepares and submits nonstructural or nonseismic plans and~~
7 ~~documents consistent with Sections 5805 and 5538 to local building~~
8 ~~departments that are of sufficient complexity so as to require the~~
9 ~~skills of a licensed contractor to implement them.~~

10 ~~(2) Engages in programming, planning, designing, and~~
11 ~~documenting the construction and installation of nonstructural or~~
12 ~~nonseismic elements, finishes, veneers, and furnishings within the~~
13 ~~interior spaces of a building.~~

14 ~~(3) Provides plans and documents that illustrate partition layouts,~~
15 ~~horizontal exiting, rated corridors, reflected ceiling plans and~~
16 ~~lighting orientation, location of power and communication outlets,~~
17 ~~materials, finishes, furniture, interior alterations, fixtures, millwork,~~
18 ~~appliances, and equipment.~~

19 ~~(4) Engages in coordination and collaboration with other design~~
20 ~~professionals who may be retained to provide consulting services,~~
21 ~~including, but not limited to, architects, engineers, and other~~
22 ~~specialty consultants.~~

23 ~~(5) Has demonstrated by means of education, experience and~~
24 ~~examination, the competency to protect and enhance the health,~~
25 ~~safety, and welfare of the public.~~

26 ~~(b) An “interior design organization” means a nonprofit~~
27 ~~organization, exempt from taxation under Section 501(c)(3) of~~
28 ~~Title 26 of the United States Code, of certified interior designers~~
29 ~~whose governing board shall include representatives of the public,~~
30 ~~except that an organization that is not currently exempt under that~~
31 ~~section that submits an application to the Internal Revenue Service~~
32 ~~requesting an exemption under that section shall be eligible to be~~
33 ~~an interior design organization if it meets the requirements under~~
34 ~~that section within a reasonable period of time.~~

35 ~~SEC. 2.~~

36 ~~SECTION 1. Section 5806 is added to the Business and~~
37 ~~Professions Code, to read:~~

38 ~~5806. Nothing in this chapter shall prohibit interior design or~~
39 ~~interior decorator services by any person or retail activity.~~

1 ~~SEC. 3.~~

2 *SEC. 2.* Section 5807 is added to the Business and Professions
3 Code, to read:

4 5807. (a) A certified interior designer shall use a written
5 contract when contracting to provide interior design services to a
6 client pursuant to this chapter. The written contract shall be
7 executed by the certified interior designer and the client, or his or
8 her representative, prior to the certified interior designer
9 commencing work. The written contract shall include, but not be
10 limited to, all of the following:

11 (1) A description of the services to be provided to the client by
12 the certified interior designer.

13 (2) A description of any basis of compensation applicable to
14 the contract and the method of payment agreed upon by the parties.

15 (3) The name, address, and certification number of the certified
16 interior designer and the name and address of the client.

17 (4) A description of the procedure that the certified interior
18 designer and the client will use to accommodate additional services.

19 (5) A description of the procedure to be used by any party to
20 terminate the contract.

21 (6) A three-day rescission clause in accordance with Chapter 2
22 (commencing with Section 1688) of Title 5 of Part 2 of Division
23 3 of the Civil Code.

24 (7) A written disclosure stating whether the certified interior
25 designer carries errors and omissions insurance.

26 (b) Subdivision (a) shall not apply to any of the following:

27 (1) Interior design services rendered by a certified interior
28 designer for which the client will not pay compensation.

29 (2) Interior design services rendered by a certified interior
30 designer to any of the following:

31 (A) An architect licensed under Chapter 3 (commencing with
32 Section 5500).

33 (B) A landscape architect licensed under Chapter 3.5
34 (commencing with Section 5615).

35 (C) An engineer licensed under Chapter 7 (commencing with
36 Section 6700).

37 (c) As used in this section, “written contract” includes a contract
38 in electronic form.

~~SEC. 4.~~

SEC. 3. Section 5810 of the Business and Professions Code is amended to read:

5810. (a) This chapter shall be subject to review by the appropriate policy committees of the Legislature.

(b) This chapter shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

~~SEC. 5.~~

SEC. 4. Section 5811.1 is added to the Business and Professions Code, to read:

5811.1. The meetings of an interior design organization issuing stamps under Section 5801 shall be subject to the rules of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

~~SEC. 6.~~

SEC. 5. Section 5812 of the Business and Professions Code is amended to read:

5812. It is an unfair business practice for any person to represent or hold himself or herself out as, or to use the title “certified interior designer” or any other term, such as “licensed,” “registered,” or “CID,” that implies or suggests that the person is certified as an interior designer when he or she does not hold a valid certification as provided in Sections 5800 and 5801.

~~SEC. 7.~~

SEC. 6. Section 7200 of the Business and Professions Code is amended to read:

7200. (a) There is in the Department of Consumer Affairs a State Board of Guide Dogs for the Blind in whom enforcement of this chapter is vested. The board shall consist of seven members appointed by the Governor. One member shall be the Director of Rehabilitation or his or her designated representative. The remaining members shall be persons who have shown a particular interest in dealing with the problems of the blind, and at least two of them shall be blind persons who use guide dogs.

(b) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders

1 the board subject to review by the appropriate policy committees
2 of the Legislature.

3 ~~SEC. 8.~~

4 *SEC. 7.* Section 7215.6 of the Business and Professions Code
5 is amended to read:

6 7215.6. (a) In order to provide a procedure for the resolution
7 of disputes between guide dog users and guide dog schools relating
8 to the continued physical custody and use of a guide dog, in all
9 cases except those in which the dog user is the unconditional legal
10 owner of the dog, the following arbitration procedure shall be
11 established as a pilot project.

12 (b) This procedure establishes an arbitration panel for the
13 settlement of disputes between a guide dog user and a licensed
14 guide dog school regarding the continued use of a guide dog by
15 the user in all cases except those in which the dog user is the
16 unconditional legal owner of the dog. The disputes that may be
17 subject to this procedure concern differences between the user and
18 school over whether or not a guide dog should continue to be used,
19 differences between the user and school regarding the treatment
20 of a dog by the user, and differences over whether or not a user
21 should continue to have custody of a dog pending investigation of
22 charges of abuse. It specifically does not address issues such as
23 admissions to schools, training practices, or other issues relating
24 to school standards. The board and its representative are not parties
25 to any dispute described in this section.

26 (c) The licensed guide dog schools in California and the board
27 shall provide to guide dog users graduating from guide dog
28 programs in these schools a new avenue for the resolution of
29 disputes that involve continued use of a guide dog, or the actual
30 physical custody of a guide dog. Guide dog users who are
31 dissatisfied with decisions of schools regarding continued use of
32 guide dogs may appeal to the board to convene an arbitration panel
33 composed of all of the following:

- 34 (1) One person designated by the guide dog user.
35 (2) One person designated by the licensed guide dog school.
36 (3) A representative of the board who shall coordinate the
37 activities of the panel and serve as chair.

38 (d) If the guide dog user or guide dog school wishes to utilize
39 the arbitration panel, this must be stated in writing to the board.
40 The findings and decision of the arbitration panel shall be final

1 and binding. By voluntarily agreeing to having a dispute resolved
2 by the arbitration panel and subject to its procedures, each party
3 to the dispute shall waive any right for subsequent judicial review.

4 (e) (1) A licensed guide dog school that fails to comply with
5 any provision of this section shall automatically be subject to a
6 penalty of two hundred fifty dollars (\$250) per day for each day
7 in which a violation occurs. The penalty shall be paid to the board.
8 The license of a guide dog school shall not be renewed until all
9 penalties have been paid.

10 (2) The penalty shall be assessed without advance hearing, but
11 the licensee may apply to the board for a hearing on the issue of
12 whether the penalty should be modified or set aside. This
13 application shall be in writing and shall be received by the board
14 within 30 days after service of notice of the penalty. Upon receipt
15 of this written request, the board shall set the matter for hearing
16 within 60 days.

17 (f) As a general rule, custody of the guide dog shall remain with
18 the guide dog user pending a resolution by the arbitration panel.
19 In circumstances where the immediate health and safety of the
20 guide dog user or guide dog is threatened, the licensed school may
21 take custody of the dog at once. However, if the dog is removed
22 from the user's custody without the user's concurrence, the school
23 shall provide to the board the evidence that caused this action to
24 be taken at once and without fail; and within five calendar days a
25 special committee of two members of the board shall make a
26 determination regarding custody of the dog pending hearing by
27 the arbitration panel.

28 (g) (1) The arbitration panel shall decide the best means to
29 determine final resolution in each case. This shall include, but is
30 not limited to, a hearing of the matter before the arbitration panel
31 at the request of either party to the dispute, an opportunity for each
32 party in the dispute to make presentations before the arbitration
33 panel, examination of the written record, or any other inquiry as
34 will best reveal the facts of the disputes. In any case, the panel
35 shall make its findings and complete its examination within 45
36 calendar days of the date of filing the request for arbitration, and
37 a decision shall be rendered within 10 calendar days of the
38 examination.

39 (2) All arbitration hearings shall be held at sites convenient to
40 the parties and with a view to minimizing costs. Each party to the

1 arbitration shall bear its own costs, except that the arbitration panel,
2 by unanimous agreement, may modify this arrangement.

3 (h) The board may study the effectiveness of the arbitration
4 panel pilot project in expediting resolution and reducing conflict
5 in disputes between guide dog users and guide dog schools and
6 may share its findings with the Legislature upon request.

7 (i) This section shall remain in effect only until January 1, 2018,
8 and as of that date is repealed, unless a later enacted statute, that
9 is enacted before January 1, 2018, deletes or extends that date.

10 ~~SEC. 9.~~

11 *SEC. 8.* Section 7303 of the Business and Professions Code is
12 amended to read:

13 7303. (a) Notwithstanding Article 8 (commencing with Section
14 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the
15 Government Code, there is in the Department of Consumer Affairs
16 the State Board of Barbering and Cosmetology in which the
17 administration of this chapter is vested.

18 (b) The board shall consist of nine members. Five members
19 shall be public members, and four members shall represent the
20 professions. The Governor shall appoint three of the public
21 members and the four professional members. The Senate
22 Committee on Rules and the Speaker of the Assembly shall each
23 appoint one public member. Members of the board shall be
24 appointed for a term of four years, except that of the members
25 appointed by the Governor, two of the public members and two
26 of the professions members shall be appointed for an initial term
27 of two years. No board member may serve longer than two
28 consecutive terms.

29 (c) The board may appoint an executive officer who is exempt
30 from civil service. The executive officer shall exercise the powers
31 and perform the duties delegated by the board and vested in him
32 or her by this chapter. The appointment of the executive officer is
33 subject to the approval of the director. In the event that a newly
34 authorized board replaces an existing or previous bureau, the
35 director may appoint an interim executive officer for the board
36 who shall serve temporarily until the new board appoints a
37 permanent executive officer.

38 (d) The executive officer shall provide examiners, inspectors,
39 and other personnel necessary to carry out the provisions of this
40 chapter.

(e) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

~~SEC. 10.~~

SEC. 9. Section 7362 of the Business and Professions Code is amended to read:

7362. (a) A school approved by the board is one that is first approved by the board and subsequently approved by the Bureau for Private Postsecondary Education or is a public school in this state, and provides a course of instruction approved by the board. However, notwithstanding any other law, both the board and the Bureau for Private Postsecondary Education may simultaneously process a school's application for approval.

(b) The board shall determine by regulation the required subjects of instruction to be completed in all approved courses, including the minimum hours of technical instruction and minimum number of practical operations for each subject, and shall determine how much training is required before a student may begin performing services on paying patrons.

(c) Notwithstanding any other law, the board may revoke, suspend, or deny ~~at any time~~ approval of a school on any of the ~~following grounds:~~ *grounds in paragraphs (1) to (8), inclusive, for disciplinary action against a school, the proceedings for which shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.*

(1) Unprofessional conduct which includes, but is not limited to, any of the following:

(A) Incompetence or gross negligence, including *repeated* failure to comply with generally accepted standards for the practice of barbering, cosmetology, or electrology, or disregard for the health and safety of patrons.

(B) Repeated similar negligent acts.

(C) Conviction of any crime substantially related to the qualifications, functions, or duties of the owner of an approved school, in which case, the records of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

- 1 ~~(D) Advertising by means of knowingly false or deceptive~~
2 ~~statements.~~
3 ~~(2) Failure to comply with the requirements of this chapter.~~
4 ~~(3) Failure~~
5 (2) *Repeated failure* to comply with the rules governing health
6 and safety adopted by the board and approved by the State
7 Department of Public Health, for the regulation of board-approved
8 schools.
9 ~~(4) Failure~~
10 (3) *Repeated failure* to comply with the rules adopted by the
11 board for the regulation of establishments, or any practice licensed
12 ~~and regulated under this chapter.~~ *board-approved schools.*
13 ~~(5)~~
14 (4) Continued practice by a person knowingly having an
15 infectious or contagious disease.
16 ~~(6)~~
17 (5) Habitual drunkenness, or habitual use ~~of~~ *of*, or addiction to
18 the use ~~of~~ *of*, any controlled substance.
19 ~~(7)~~
20 (6) Obtaining or attempting to obtain practice in any occupation
21 licensed and regulated under this chapter, or money, or
22 compensation in any form, by fraudulent misrepresentation.
23 ~~(8) Failure to display the license or health and safety rules and~~
24 ~~regulations in a conspicuous place.~~
25 ~~(9)~~
26 (7) Refusal to permit or interference with an inspection
27 authorized under this chapter.
28 ~~(10)~~
29 (8) Any action or conduct that would have warranted the denial
30 of a school approval.